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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,653	11/13/2003	Robert Bergum	03-906	8963
20306	7590	01/13/2006	EXAMINER	
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP			BRADEN, SHAWN M	
300 S. WACKER DRIVE			ART UNIT	
32ND FLOOR			PAPER NUMBER	
CHICAGO, IL 60606			3727	

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,653	Applicant(s) BERGUM ET AL.	
	Examiner Shawn M. Braden	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/11/05 & 03/08/04</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign (48) mentioned in the description: page 5 line 12. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

1. The information disclosure statement filed March 08 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with

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the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-27 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by RIDGID operators manual for models 2032-os,2048-os,3068-os RIDGID on-site storage equipment.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 rejected under 35 U.S.C. 102(b) as being anticipated by Perkins (USPN 4,303,158). Perkins clearly discloses a jobsite storage chest 11, a front, back two side walls and a bottom, a top cover 21 pivotably mounted to one of the walls, a removable tray 37 further capable of sliding movement along the sidewalls.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knaack (USPN 4,288,134) in view of Connors (USPN 5,004,103) and Perkins (USPN 4,303,158). With respect to claim 1 Knaack shows a jobsite storage chest for housing tools and equipment comprising a front wall, a back wall, two side walls extending there between, and a bottom wall. Knaack also shows a top cover pivotally mounted to one of the walls. Knaack disclosed a tray 45 welded upon the top surface of a handle recess. The welds make Knaack's tray incapable of sliding and or removing. However Connors shows a tray 2 capable of sliding and also being removable in order to store parts on or in tray and also below (col 3 ln 15-35). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to make the tray 45 on Knaack's container capable of sliding and being removable when desired in order to improve the ability to access the tool or components stored in the bottom of the container.

With respect to claim 2, Connors in view of claim 1, teaches a tray 2 wherein the tray comprises a front wall 6, a back wall 6, two sidewalls 6 extending there between, and a bottom wall.

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With respect to claims 3,4, Connors in view of claim 1, teaches a plurality of holes 9 in the tray in order to hold tools. Therefor it would have been obvious to one of ordinary skill in the art at the time of the invention to add holes to the tray 45 on Knaack's container in order to hold tools.

With respect to claim 5, Connors in view of claim 1, shows each tray side wall is provided with a flange extending therefrom 4. Connors defines the flanges as rails but they have the same structure. Both references show each flange resting upon a top surface of a handle recess located on each sidewall of the container (Fig. 2 Connors) (Fig. 2 Knaack).

8. With respect to claims 7-10, Knaack shows all elements except a removable capable of sliding tray with front, back and sidewalls. Also Knaack lacks notches and dividers. Perkins shows a removable capable of sliding tray 47 that includes front, back and sidewalls (fig.3). Perkins also teaches a plurality of notches and dividers 48.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Knaack container with the teaching of Perkins removable tray with the plurality of notches and dividers in order to have a portable shelf adaptable to hold a variety of different sized components (Col. 3, ln. 50-60).

9. Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Knaack in view of admitted prior art. Knaack discloses everything except an access provided on the back wall for electrical cord pass-through. Applicant discloses "in the past, some contractors drilled a hole through the wall of the chest in order to allow access to a power supply" (pg. 3, ln. 4). By applicant's own admission the practice was well

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known. Therefor it would have been obvious to one of ordinary skill in the art at the time of the invention to add access through the back wall of Knaack to allow an electrical cord pass-through.

10. Claims 15-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knaack, Connors and Perkins as applied to claims 1-5 above, and further in view of admitted prior art. Knaack, Connors and Perkins teach everything claimed, as discussed above, except an access provided on the back wall for electrical cord pass-through. Applicant discloses "in the past, some contractors drilled a hole through the wall of the chest in order to allow access to a power supply" (pg. 3, ln. 4) of applicants specification. By applicants own admission the practice was well known. Therefor it would have been obvious to one of ordinary skill in the art at the time of the invention to add access through the back wall of Knnack to allow an electrical cord pass-through.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smb


JES F. PASCUA
PRIMARY EXAMINER